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FISCAL IMPACT STATEMENT

LS 7107

BILL NUMBER: HB 1411

NOTE PREPARED: Jan 12, 2013

BILL AMENDED:

SUBJECT: Court Staff Attorney Pilot Program.

FIRST AUTHOR: Rep. Washburne

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It creates the Circuit and Superior Court Staff Attorney Pilot Program (Pilot Program) to provide assistance to courts with preparing orders for dispositive motions.
- B. It requires the Judicial Center to administer the pilot program and to report to the Commission on Courts (Commission) concerning the pilot program.
- C. It requires the Commission to receive reports concerning the pilot program, and allows the Commission to make recommendations and to propose legislation concerning the pilot program.

Effective Date: July 1, 2013.

Explanation of State Expenditures: Depending on the number of cases in which parties to a case might request a dispositive motion, the Judicial Center may need to add one or more attorneys. The costs of these attorneys could be recovered by a fee, depending on the fee level.

As proposed, this bill would require the Indiana Judicial Center to administer a pilot project so that staff attorneys would be available for courts of record to use to prepare orders to grant or deny dispositive motions. The pilot project would involve five counties of varying populations, with two small counties (fewer than 50,000), two medium (between 50,000 and 200,000), and one large (greater than 200,000).

Background— Plaintiffs and defendants in lawsuits generally wish to avoid litigation expenses. If the parties

to a case are not able to settle a case, either plaintiff or defendant can request a dispositive motion so the court could enter an order to either dismiss the case or another order that disposes of some or all of the issues in the case.

The court bases its review of the facts on the pleadings and supplemental affidavits and depositions provided by the parties and occasionally a hearing. Sometimes the decision is made purely on the law because the parties do not dispute the facts. Issuing a dispositive motion can help either party in a civil action avoid lengthy litigation. If state or local units of government are involved in litigation, this bill could help to reduce the cost of litigation to state and local governments.

The Indiana Supreme Court annually reports the number of cases disposed by type and by method. Civil cases include civil plenary (more complex cases involving contract disputes and actions seeking equitable or injunctive relief), mortgage foreclosures, civil collections and civil torts. The types of method of disposition include bench dispositions, where cases are disposed by final judicial determination of an issue but where no evidence is introduced. These dispositions include dispositive motions as well as other decisions. The following table illustrates that in CY 2011, the number of cases that were disposed by a bench disposition, which include dispositive motions, ranged between 7% for civil torts to 18% for civil plenary cases.

Selected Civil Cases Disposed in CY 2011				
<u>Type of Civil Case</u>	<u>Civil Plenary</u>	<u>Mortgage Foreclosure</u>	<u>Civil Collections</u>	<u>Civil Tort</u>
Total Disposed	12,136	28,417	77,732	10,092
Cases Disposed by Bench Disposition	2,201	3,767	11,742	671
Percent of Cases Disposed by Bench Disposition	18%	13%	15%	7%

The Commission on Courts is a statutory commission that reviews court-related issues and programs.

Explanation of State Revenues:

Explanation of Local Expenditures: See state expenditures.

Explanation of Local Revenues:

State Agencies Affected: Indiana Judicial Center.

Local Agencies Affected: Trial courts.

Information Sources: *2011 Indiana Judicial Report*.

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